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In re Application of
Daniel Smith et al
Application No. 10/006,337
Filed: December 3, 2001
Attorney Docket No. 6607-01/CIP

This is a decision on the petition under 37 CFR 1.137(b), filed May 19, 2004, to revive the above-identified application.

The petition is **DISMISSED AS MOOT** for the reasons stated below.

A review of the file record discloses that a non-final Office action was mailed on July 21, 2003, setting a three month shortened statutory period for reply. Extensions of time under the provisions of 37 CFR 1.136(a) were permitted. Therefore, a reply, with the appropriate extension of time fee, was due on or before November 21, 2003. A fee for one month extension of time (\$110) and a reply was timely filed via certificate of mailing on October 27, 2003, and received in the U.S. Patent and Trademark Office on February 17, 2004. Therefore, since this case was not in fact abandoned at the time of filing the instant petition, the petition to revive was prematurely filed and is dismissed as involving a moot issue.

Since this application was not abandoned at the time of filing of the petition to revive, as explained above, the \$1,330 fee assessed to the instant petition is unnecessary and will be credited to deposit account No. 03-2455 as authorized.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

The application file is being forwarded to Technology Center AU 1751.


Wan Laymon

Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy